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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,862	11/30/2000	Stephen E. Greco	00750414BA	3056

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EXAMINER

NGUYEN, JOSEPH H

ART UNIT

PAPER NUMBER

2815

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/725,862

Applicant(s)

GRECO ET AL.

Examiner

Joseph Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-33 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-33 and 36-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 27, 31-33, 36-41, 43-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawanoue et al.

Regarding claim 27, Kawanoue et al discloses on figure 24 an integrated circuit semiconductor device including a substrate having a substrate surface, a flowable oxide insulator (FOX) layer 161 upon said substrate surface, a trough 165 in said flowable oxide insulator layer, sidewalls of said flowable oxide insulator layer, a primary protective layer 163 on said sidewalls of said flowable oxide insulator layer, said primary protective layer being a thin oxidized surface of said FOX, said thin surface layer preventing the exposure of said flowable oxide insulator layer to moisture and lithographic resist developers, said primary protective layer being substantially

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impervious to copper extrusion, and a secondary protective layer 164 on said primary protective layer and on said substrate surface, said secondary protective layer being electrically conductive.

Regarding claim 31, Kawanoue et al discloses on figure 24 a nitride supplemental protective layer 166 on said primary protective layer for improving adhesion with a metallic conductor.

Regarding claim 32, Kawanoue et al discloses on figure 24 said primary layer is a barrier layer.

Regarding claim 33, Kawanoue et al discloses on figure 24 said primary protective layer 163 on said sidewalls of said flowable insulator 161 has a thickness equal to or less than 20% of thickness of said flowable oxide insulator layer (col. 20, line 63 and col. 21, lines 24-25).

Regarding claim 36, Kawanoue et al discloses on figure 24 said supplemental protective layer 166 is a nitride layer.

Regarding claim 37, Kawanoue et al discloses on figure 24 said thin layer of oxide has a thickness not exceeding about 500 Å.

Regarding claim 38, Kawanoue et al discloses on figure 24 an integrated circuit including a layer of flowable oxide insulator 161, and a thin protective layer 163 thereon, said thin protective layer being an oxidized surface layer of said flowable oxide insulator that is resistant to moisture and lithographic resist developers.

Regarding claim 39, Kawanoue et al discloses on figure 24 said thin oxidized layer 161 has a thickness less than about 500 Å (col. 21, lines 24-25).

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Regarding claim 40, the claim limitation is merely the product by process and therefore not given patentable weight.

Regarding claim 41, Kawanoue et al discloses on figure 24 a nitride or oxide nitride layer 166 on said thin oxidized surface layer 163.

Regarding claim 43, Kawanoue et al discloses on figure 24 a conductive layer 164 on said thin oxidized surface layer 163.

Regarding claim 44, Kawanoue et al discloses on figure 24 a metal conductor 165 in contact with said conductive layer 164.

Regarding claim 45, Kawanoue et al discloses on figure 24 said metal conductor 165 contains copper.

Regarding claim 46, Kawanoue et al discloses on figure 24 said conductive barrier layer 164 includes a refractory metal or alloy.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawanoue et al as applied to claim 27 above, and further in view of Lopatin et al.

Regarding claim 28, Kawanoue et al discloses on figure 24 substantially all the structure set forth in the claimed invention except an oxidized FOX layer on a surface of

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said FOX layer and an oxide layer upon said oxidized FOX layer. However, Lopatin et al discloses on figure 2 an oxidized FOX layer 105 on a surface of said FOX layer 108 and an oxide layer 108 upon said oxidized FOX layer 116. In view of such teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawanoue et al by having an oxidized FOX layer on a surface of said FOX layer and an oxide layer upon said oxidized FOX layer for the purpose of effectively establishing the electrical interconnects in the integrated circuit semiconductor device.

Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawanoue et al and Lopatin et al as applied to claim 28 above, and further in view of Yew et al.

Regarding claims 29 and 30, Kawanoue et al and Lopatin et al disclose substantially all the structure set forth in the claimed invention except the integrated circuit semiconductor device comprising a second damascene layer. Note that the second damascene layer is merely duplication of the first damascene layer of claim 27. However, Yew et al discloses on figure 2E the second damascene layer 226, 212 similar to the first damascene layer 222, 204. In view of such teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawanoue et al and Lopatin et al by having the second damascene layer similar to the first damascene layer in the integrated circuit semiconductor device. The ordinary artisan would have been motivated to modify Kawanoue et al and Lopatin et al in the

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manner described for the purpose of having a reduced parasite capacitance in the dielectric layers, thus assuring the performance of an IC device (col. 3, line 15-18).

Claims 42, 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawanoue et al as applied to claim 46 above, and further in view of Usami.

Regarding claims 42 and 47, Kawanoue et al discloses on figure 24 substantially all the structure set forth in the claimed invention except the layer of flowable oxide insulator being located between two non-coplanar metal layers. However, Usami discloses on figure 1 the layer of flowable oxide insulator 4 being located between two non-coplanar metal layers 3. In view of such teaching, it would have been obvious to one of ordinary skill in that art at the time the invention was made to modify Kawanoue et al by having the layer of flowable oxide insulator being located between two non-coplanar metal layers for the purpose of effectively establishing the electrical interconnects within the integrated circuit device.

Regarding claim 48, Kawanoue et al and Usami together disclose the structure of claim 48.

Response to Arguments

Applicant's arguments filed on 10/9/2002 have been fully considered but they are not persuasive.

With respect to claim 27, applicant argues that it is not clear that the dielectric film 161 of Kawanoue is a flowable oxide (FOX) material. However, the term "flowable

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oxide" is so broad that the dielectric film 161 formed of SiO₂ is considered as a FOX layer since one skilled in the art would know that when SiO₂ is heated up to its melting point, it would melt and flow. Therefore, the SiO₂ layer is a flowable oxide. Unless applicant includes a specific material that makes a so-called flowable oxide layer, the dielectric layer 161 does not structurally distinguish from the flowable oxide layer as recited in claim 27.

Further, applicant argues the first barrier layer 163 of Kawanoue is a metal oxynitride and not an oxide layer and not an oxide layer formed of oxidized FOX. However, this barrier layer is formed of TaNO and clearly is an oxide layer in a broad sense since a so-called oxide layer is not purported to be only oxide and not nitride. Also, applicant argues that this barrier layer is not a protective layer. However, the barrier layer functions to suppress the Cu diffusion from the surface of the SiO₂ layer. As such, the barrier layer is used to protect the SiO₂ layer herein.

Moreover, applicant argues that in Lopatin et al the oxide layer 108 is formed on nitride layer 117 rather than oxide layer 116. However, since an oxide layer is not claimed to be directly on the oxidized FOX layer, the oxide layer 108 is clearly formed on the oxidized FOX layer.

Additionally, applicant argues that Yew et al does not supplement Kawanoue et al and Lopatin et al in regard to the use of flowable oxide or providing protection for it in the form of a layer of oxidized FOX. However, the only difference between the claimed invention and Kawanoue et al and Lopatin et al is a second damascene layer, and Yew et al clearly discloses on figure 2E the second damascene layer 226, 212 similar to the

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first damascene layer 222, 204 as mentioned above in this Office Action. Therefore, the combination of Kawanoue et al and Lopatin et al and Yew et al would disclose all the structures set forth in claims 29-30.

Lastly, applicant argues that Usami does not teach or suggest forming a protection layer of oxidized FOX and does not supplement Kawanoue et al. However, the only difference between the claimed invention and Kawanoue et al is the layer of flowable oxide insulator being located between two non-coplanar metal layers.

However, Usami clearly discloses on figure 1 the layer of flowable oxide insulator 4 being located between two non-coplanar metal layers 3. Therefore, the combination of Kawanoue Usami would disclose all the structures set forth in claims 42 and 47.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

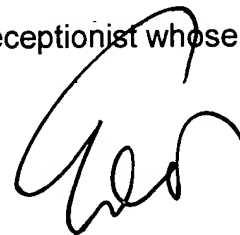
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Nguyen whose telephone number is (703) 308-1269. The examiner can normally be reached on Monday-Friday, 7:30 am- 4:30 pm

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lee can be reached on (703) 308-1690. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 308-7382 for regular communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JN

November 15, 2002



EDDIE LEE
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